

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 35

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FERDINAND LEIFELD

Appeal No. 97-1260
Application 08/124,774¹

HEARD: MARCH 2, 1998

Before CALVERT, ABRAMS and McQUADE, Administrative Patent Judges.

McQUADE, Administrative Patent Judge.

DECISION ON APPEAL

This appeal is from the final rejection of claims 1 through 15, 17 through 19, 21 and 22, all of the claims

¹ Application for patent filed September 22, 1993.

Appeal No. 97-1260
Application 08/124,774

pending in the application.²

The invention relates to "an apparatus which forms part of a carding machine and which serves for introducing fiber material to the main carding cylinder" (specification, page 1). Independent claim 1 is representative and reads as follows:

1. In a carding machine including a main carding cylinder and an apparatus for introducing fiber material to the main carding cylinder; the apparatus including a fiber feeding device and at least one licker-in having a sawtooth clothing and being disposed between the fiber feeding device and the main carding cylinder; the improvement wherein said apparatus comprises at least one pin roll having a pin clothing; said pin roll including a securing surface; said pin clothing including a plurality of pins embedded into and projecting from said securing surface; said pin roll immediately adjoining said fiber feeding device and being situated between said fiber feeding device and said licker-in.

The references relied upon by the examiner as evidence of obviousness are:

Plantron	166,407	Aug. 3, 1875
Riehl et al. (Riehl)	2,964,801	Dec. 20, 1960
Otani	3,995,351	Dec. 7, 1976
Estebanell	4,355,439	Oct. 26, 1982
Weber	8560	Jun. 14, 1887

² Claims 17 and 18 have been amended subsequent to final rejection.

Appeal No. 97-1260
Application 08/124,774

(British Patent Document)

The claims on appeal stand rejected under 35 U.S.C. § 103 as follows:³

a) claims 1 through 5, 7 through 11, 13 through 15, 19 and 22 as being unpatentable over Weber in view of Otani and Riehl;

b) claims 6, 17, 18 and 21 as being unpatentable over Weber in view of Otani and Riehl, and further in view of Plantron;⁴ and

c) claim 12 as being unpatentable over Weber in view of Otani and Riehl, and further in view of Estebanell.

Reference is made to the appellant's main and reply briefs (Paper Nos. 23 and 27) and to the examiner's final rejection, main answer and supplemental answer (Paper Nos. 15, 24 and 29) for the respective positions of the appellant and

³ In view of the amendment subsequent to final rejection, the examiner has withdrawn a 35 U.S.C. § 112, second paragraph, rejection of claims 17 and 18 which was set forth for the first time in the main answer (Paper No. 24). See page 1 in the supplemental answer (Paper No. 29).

⁴ The examiner mistakenly included canceled claim 16 in the statement of this rejection in both the final rejection (Paper No. 15) and main answer (Paper No. 24).

the examiner with regard to the propriety of these rejections. Since the appellant, stating that "[n]o independent defense is presented in connection with claims 2-15, 17, 18, 19, 21 and 22 which all depend directly or ultimately from the sole independent claim 1" (main brief, page 5),⁵ has not challenged the rejections of the dependent claims with any reasonable specificity, all of

the dependent claims shall stand or fall with independent claim 1 (see In re Nielson, 816 F.2d 1567, 1572, 2 USPQ2d 1525, 1528 (Fed. Cir. 1987)).

Weber discloses a carding machine having a large or main carding cylinder T and an apparatus for introducing fiber material to this cylinder. The introducing apparatus includes a fiber feeding device composed of a fluted feed cylinder C and a spreading device F, a licker-in composed of a breaker roll B, and an additional breaker roll A immediately adjoining

⁵ The copy of claim 19 in the appendix to the appellant's main brief, which shows the claim to be independent, is not accurate.

the fiber feeding device (fluted feed cylinder C and spreading device F) and situated between the fiber feeding device and the lick-in (breaker roll B). The breaker roll A rotates at a lower velocity than the breaker roll B so as to open and clean the fiber material in a gradually accelerating manner which is said to improve the performance and efficiency of the carding process (see, for example, pages 1, 2, 4 and 7). Weber teaches that the lick-in or breaker roll B has a covering similar to that of the main carding cylinder and that the breaker roll A has a covering similar to that of the revolving tops of the large or main carding cylinder (see pages 3, 6 and 7).

The Weber carding machine meets all of the limitations in representative claim 1 except for those requiring the lick-in to have a sawtooth clothing and the roll between the fiber feeding device and the lick-in to be a pin roll having a pin clothing which includes a plurality of pins embedded into and projecting from a securing surface. As noted above, Weber only describes the lick-in or breaker roll B as having a

covering or clothing similar to that of the main carding cylinder and the breaker roll A between the fiber feeding device and the licker-in as having a covering or clothing similar to that of the revolving tops of the large or main carding cylinder.

Otani discloses a carding machine which includes a main carding cylinder 3 and an associated revolving top in the form of a rotary flat section 4. As conceded by the appellant, "the Otani reference in Figure 2 shows a cooperation between traveling flats [i.e., the rotary flat section] that have a pin clothing and a main carding cylinder that has a sawtooth clothing" (main brief, page 9).

Riehl discloses a carding machine wherein the main carding cylinder 12 is a pin roll. As best shown in Figure 4, the pins are embedded in and project from a securing surface of the roll.

According to the examiner, it would have been obvious to one of ordinary skill in the art to implement Weber's teaching that the licker-in or breaker roll B has a covering similar to

that of the main carding cylinder and that the breaker roll A has a covering similar to that of the revolving tops of the main carding cylinder by providing the licker-in or breaker roll B with a sawtooth clothing and the breaker roll A with a pin clothing in view of the teachings of Otani. The examiner also concludes that it further would have been obvious to one of ordinary skill in the art to form the pin clothing on the breaker roll A of a plurality of pins embedded into and projecting from a securing surface in view of the teachings of Riehl (see pages 3 through 5 in the final rejection).

In essence, the appellant contends that the examiner's conclusion of obviousness is unsound because the combined teachings of the references would not have suggested (1) making Weber's rolls A and B a pin roll and a sawtooth roll, respectively, and (2) providing the pin roll with a lesser clothing point density than the sawtooth roll.

Notwithstanding the appellant's argument to the contrary, Weber's teaching that the licker-in or breaker roll B has a covering similar to that of the main carding cylinder and that the breaker roll A has a covering similar to that of the revolving tops of the main carding cylinder would have

furnished the artisan with ample suggestion or motivation to provide the licker-in or breaker roll B with a sawtooth clothing and the breaker roll A with a pin clothing when combined with Otani's teaching of a main carding cylinder having a sawtooth clothing and revolving flats or tops having a pin clothing. That Riehl discloses a conventional pin clothing construction has not been disputed. The relative clothing point density argument advanced by the appellant is unpersuasive in light of the lack of any express mention of this feature in the claims, or even in the underlying disclosure, and the lack of any evidence in the record supporting the appellant's assertion that this feature inherently is recited in the claims.

In light of the foregoing, the differences between the subject matter recited in representative claim 1 and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art. Accordingly, we shall sustain the standing 35 U.S.C. § 103 rejections of this claim and of dependent claims 2 through 15, 17 through 19, 21 and 22 which stand or fall therewith.

Appeal No. 97-1260
Application 08/124,774

The decision of the examiner is affirmed.

No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED

	IAN A. CALVERT)	
	Administrative Patent Judge)	
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	NEAL E. ABRAMS)	BOARD OF
PATENT	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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)	
	JOHN P. McQUADE)	
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Appeal No. 97-1260
Application 08/124,774

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